

How to Get a Money Judgment Or Return of Personal Property In the Small Claims Court

Small Claims Complaint Order and Notice to Defendant

Use these forms if you want to bring a lawsuit against someone who owes you money or who has possession of personal property you want returned. Review the Citizens Guide to Small Claims Court prepared by the Office of the Attorney General. If you need help the clerk of the small claims court will assist you, but can not give legal advice.

The maximum you can collect through a judgment in small claims court is \$3,000.00. The value of the property you seek to recover in small claims court can not exceed \$3,000.00. If you are seeking damages that have not been determined or agreed upon you can not file in small claims court, but must file in the civil division of the justice court.

You must pay the court clerk a fee for filing this form. The fees in small claims court total \$20.00.

After you complete the forms, file them with the clerk of the small claims court. The “Small Claims Complaint” must be signed in the presence of the clerk of the small claims court or the judge.

The clerk of the small claims court will give you a hearing date when issuing the “Order of Court and Notice to Defendant”.

You must have a copy of the “Small Claims Complaint” and the “Order of Court and Notice to Defendant” served on the defendant.

The defendant must be served in the county in which the small claims court is located.

[Yellowstone County] Service of the defendant outside the county of the small claims court is not valid.

The defendant must be served not less than 5 days before the hearing date set by the clerk of the small claims court. If service can not be made on the defendant within this time, you can ask the clerk of court to reset the hearing date.

You can not serve the defendant yourself. You can serve the defendant by having a levying officer or the sheriff give the forms to the defendant. You can serve the defendant by having a person over the age of 18 give the forms to the defendant. Proof of service must be signed by the person making the service and filed with the clerk of the small claims court. The original “Order of Court and Notice to Defendant” must be returned to the clerk of the small claims court before the hearing date.

The clerk of the small claims court maintains a list of qualified levying officers. You will be required to pay all fees of the levying officer or the sheriff. The fees for service varies, you should contact the levying officer or the sheriff for the fees they charge.

You must attend the hearing. Failure to attend the hearing will result in dismissal of your complaint. Be sure to bring along any witnesses, books, papers, or other evidence which will help prove to the court that you are entitled to a money judgment or possession to the property.

Small Claims Division, Yellowstone County Justice Court

INSTRUCTIONS FOR COMPLETING SMALL CLAIMS COMPLAINT AND ORDER OF COURT AND NOTICE TO DEFENDANT

Please print neatly. If your complaint is not legible or incomplete the small claims court clerk will not accept it for filing.

Numbers 1 through 11 must be completed before your complaint can be filed with the small claims court. Please read the instruction for each number. Then fill in the correct information for that number.

1. **Complaint, Order and Notice to Defendant.** Print the name, address and telephone number of the party who is suing on the lines provided. This person is called the plaintiff. This may be someone other than you. If you are suing on behalf of a corporation, partnership, company, or association the plaintiff is the corporation, partnership, company, or association. 1(a) must be completed and 1(b) completed if more than one plaintiff.
2. **Complaint, Order and Notice to Defendant.** Print the name, address and telephone number of the party who is being sued on the lines provided. This person is called the defendant. If the party is a corporation, partnership, company, or association enter the name of the corporation, partnership, company, or association. 2(a) must be completed and 2(b) completed if more than one defendant.
3. **Complaint.** Check the box which best describes your relationship to the plaintiff, i.e. “the plaintiff”, “a partner”, “an officer of the plaintiff” or “an employee of the plaintiff”.

Only a plaintiff who has had the transaction with the defendant can file and prosecute a claim in small claims court. A power of attorney from the plaintiff is not sufficient to file a complaint. If you are not the plaintiff, or an employee of the plaintiff, or do not have direct and personal knowledge of the facts of the dispute, you can not complete this form for the plaintiff. Assigned claims are not allowed in small claims court unless pursuant to 27-1-718.
4. **Complaint.** Check the box which best describes the plaintiff, i.e. “an individual”, “a partnership”, or “a sole proprietor”. If you checked a box other than “an individual”, print in the name and address of the business if it is different from the name and address in item 1.
5. **Complaint.** Check the box which best describes the defendant, i.e. “an individual”, “a partnership”, or “a sole proprietor”. If you checked a box other than “an individual”, print in the name and address of the business if it is different from the name and address in item 2.
6. **Complaint.** Check the box which applies. Check both boxes if you are seeking the return of personal property or in the alternative the value of the personal property. Enter the amount of money owed or the value of the personal property. The amount cannot be more than \$3,000.00. Describe the property you want returned.
7. **Complaint.** Print the date the disputed claim happened. For example, the date the money was borrowed, note signed, goods purchased, or property borrowed or received.
8. **Complaint.** Explain the reason for the claim. Include what happened to cause the dispute. Attach additional sheet if needed.
11. **Complaint. Sign your name before the clerk of the small claims court.** The clerk of the small claims court will fill in the date for the hearing and give you a copy, and will explain what to do next.

What happens next?

- You must pay the court fees totaling \$20.00.
- You must have the complaint, order and notice served on the defendant. The clerk of the small claims court will provide you with a list of licensed levying officers. The defendant must be served not less than 5 days before the date set for the hearing. If it can not be served before the hearing date, you can ask the clerk to set a new date for the hearing. The original of the Order and Notice to the Defendant must be filed with the court before the hearing date.
- You must attend the hearing. The hearing date, time, and location are stated in the Order and Notice to the Defendant. Be sure to bring along any witnesses, books, papers, or other evidence which will help you prove your claim to the court.
- Read the Citizens Guide to Small Claims Court prepared by the Office of the Attorney General.